

(2) Maintain that speed until beginning the recovery performance stops at a distance of 1.5 km (0.93 mi) after the beginning of the fourth cooling stop.

S7.16. Recovery performance.

S7.16.1. General information. The recovery performance test is conducted immediately after completion of the brake cooling stops.

S7.16.2. Vehicle conditions.

(a) Vehicle load: GVWR only.

(b) Transmission position: In neutral.

S7.16.3. Test conditions and procedures.

(a) IBT: Temperature achieved at completion of cooling stops.

(b) Test speed: 100 km/h (62.1 mph).

(c) Pedal force: The pedal force shall not be greater than the average pedal force recorded during the shortest GVWR cold effectiveness stop.

(d) Wheel lockup: No lockup of any wheel for longer than 0.1 seconds allowed at speeds greater than 15 km/h (9.3 mph).

(e) Number of runs: 2 stops.

(f) Immediately after the fourth cooling stop, accelerate at the maximum rate to 100 km/h (62.1 mph).

(g) Maintain that speed until beginning the first recovery performance stop at a distance of 1.5 km (0.93 mi) after the beginning of the fourth cooling stop.

(h) If the vehicle is incapable of attaining 100 km/h, it is tested at the same speed used for the GVWR cold effectiveness test.

(i) Immediately after completion of the first recovery performance stop accelerate as rapidly as possible to the specified test speed and conduct the second recovery performance stop.

S7.16.4. Performance requirements.

The stopping distance, S , for at least one of the two stops must be within the following limits:

$$\frac{0.0386V^2}{1.50d_c} \leq S - 0.10V \leq \frac{0.0386V^2}{0.70d_c}$$

where d_c and V are defined in

S7.14.4(a).

S7.17. Final Inspection. Inspect:

(a) The service brake system for detachment or fracture of any components, such as brake springs and brake shoes or disc pad facings.

(b) The friction surface of the brake, the master cylinder or brake power unit reservoir cover, and seal and filler openings, for leakage of brake fluid or lubricant.

(c) The master cylinder or brake power unit reservoir for compliance with the volume and labeling requirements of S5.4.2 and S5.4.3. In

determining the fully applied worn condition, assume that the lining is worn to (1) rivet or bolt heads on riveted or bolted linings or (2) within 0.8 mm (1/32 inch) of shoe or pad mounting surface on bonded linings or (3) the limit recommended by the manufacturer, whichever is larger relative to the total possible shoe or pad movement. Drums or rotors are assumed to be at nominal design drum diameter or rotor thickness. Linings are assumed adjusted for normal operating clearance in the released position.

(d) The brake system indicators, for compliance with operation in various key positions, lens color, labeling, and location, in accordance with S5.5.

Issued: January 23, 1995.

Ricardo Martinez,
Administrator.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 651

[Docket No. 950124025-5025-01; I.D. 122094A]

RIN 0648-AD33

Northeast Multispecies Fishery

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule; technical amendment.

SUMMARY: NMFS issues this final rule to make corrections and clarifications to the regulations implementing Amendment 5 to the Northeast Multispecies Fishery Management Plan (FMP) and subsequent framework actions.

EFFECTIVE DATE: February 1, 1995, except for § 651.9(e)(36), amendments to § 651.20(b)(2)(ii), and § 651.20(c)(2)(ii), and § 651.20(c)(4) introductory text, which will be effective on June 11, 1995.

FOR FURTHER INFORMATION CONTACT: Bridgette S. Davidson, NMFS, Fishery Management Specialist, 508-281-9347.

SUPPLEMENTARY INFORMATION: The New England Fishery Management Council (Council) submitted Amendment 5 to the FMP to NMFS on September 27, 1993. Amendment 5, with some exceptions, was approved on January 3, 1994. The final rule for Amendment 5

was published on March 1, 1994 (59 FR 9872). This final rule makes several corrections and clarifications to the regulations and to subsequent amendments to the regulations—59 FR 9872, March 1, 1994; 59 FR 26972, May 25, 1994; 59 FR 36725, July 19, 1994; 59 FR 42176, August 17, 1994.

The definition of "sink gillnet" (§ 651.2) was modified in Framework Adjustment 4 to the FMP and is further clarified here. The definition is revised to clarify that a sink gillnet is a bottom-tending gillnet.

Section 651.4(f)(2)(iv) is modified to reflect the Council's intent. Although the preamble to the final regulations for Amendment 5 stated that vessel owners would be allowed to change their 1994 permit category within 30 days of receiving their permit, there was no specific language in the regulations prohibiting a change in category after that time during the initial fishing year. The Council did not intend for vessels to switch between days-at-sea (DAS) programs, except during the renewal process to receive a 1995 limited access multispecies permit. The regulations are modified accordingly.

Section 651.5 requires any operator of a vessel in possession of multispecies harvested from the exclusive economic zone to have an operator's permit. Recreational vessels that are exempt from a multispecies permit are also exempt from the operator's permit requirements. This exemption was inadvertently omitted from the final rule implementing Amendment 5. This final rule clarifies that only vessels that are required to have a multispecies permit are required to have an operator with an operator's permit.

The regulations implementing mesh obstruction and tie-up inadvertently had no correlated prohibitions. Section 651.9(b)(11) and (e)(36) are added by this final rule to address this omission; however, the prohibition at § 651.9(e)(36) will be effective beginning June 11, 1995, due to the emergency action published in the **Federal Register** on (59 FR 63926, December 12, 1994), which temporarily added prohibitions to that section. The emergency action is effective through March 12, but the Council is expected to vote to extend the emergency for an additional 90 days, i.e., through June 11, 1995. If the emergency action is not extended, NMFS will publish a notice to modify the effective date of this rule.

In order to reflect more accurately the prohibition at § 651.9(b)(1), the word "accruing" is replaced with "using" when discussing a vessel using all of its annual DAS allocation.

Section 651.20(b)(2)(ii) and (c)(2)(ii) both make reference to paragraphs (f) and (g). These references are corrected to read paragraphs (e) and (f), respectively, which are the midwater trawl gear and the purse seine gear exceptions.

The net stowage requirements at § 651.20(c)(4) are directed at fishing in southern New England or the mid-Atlantic, but the stowage requirements also apply to sink gillnet vessels transiting areas closed to sink gillnets and to vessels participating in the Cultivator Shoals Whiting Fishery when transiting the Gulf of Maine/Georges Bank regulated mesh area. References to specific geographic areas are removed from net stowage requirements. Corrections to § 651.20 will be effective beginning June 11, 1995, because the emergency action published on December 12, 1994, has temporarily suspended portions of this section.

Section 651.22(c)(1)(i)(B) is corrected by removing the reference to the 500-lb (226.8-kg) possession limit, which was changed with Framework Adjustment 3 to the FMP (59 FR 36725, July 19, 1994).

A technical amendment to § 651.22(d)(1)(i)(C) clarifies that in order to be eligible for the small-boat exemption (for vessels 45 ft (13.7 m) or less), a vessel owner must provide documentation that accurately states the vessel's length overall. This is intended to remove the confusion as to when U.S. Coast Guard documentation will be accepted as verification of a vessel's length.

In § 651.23(c), the reference to paragraph (c) is corrected to read paragraph (d).

Classification

Because this rule only corrects omissions and other errors or makes clarifications of intent to an existing set of regulations for which full prior notice and opportunity for comment have been given, under 5 U.S.C. 553(b)(B), it is unnecessary to provide prior notice and opportunity for comment.

This rule imposes no new requirements on anyone subject to these regulations, and many provisions remove or relieve restrictions. Accordingly, under 5 U.S.C. 553(d), the rule is effective immediately except for sections 651.9(e)(36), 651.20(b)(2)(ii), 651.20(c)(2)(ii), and 651.20(c)(4) introductory text, which will be effective beginning June 11, 1995.

This rule is exempt from review under E.O. 12866.

List of Subjects in 50 CFR Part 651

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: January 26, 1995.

Gary Matlock,

Program Management Officer, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 651 is amended as follows:

PART 651—NORTHEAST MULTISPECIES FISHERY

1. The authority citation for part 651 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. Section 651.2, the definition for "sink gillnet" is revised to read as follows:

§ 651.2 Definitions.

Sink gillnet means a bottom-tending gillnet, which is any gillnet, anchored or otherwise, that is designed to be, is capable of being, or is fished on or near the bottom in the lower third of the water column.

3. Section 651.4(f)(2)(iv), is revised to read as follows:

§ 651.4 Vessel permits.

(f) * * *

(2) * * *

(iv) In 1994, vessel owners may change their vessel's DAS category within 30 days of receipt of their 1994 multispecies permit. After 30 days, the vessel must fish only in the DAS program assigned for the remainder of the fishing year. In 1995, if the vessel owner is applying to fish under a different DAS program than was assigned for 1994, the application must include such election and the vessel must fish only in that category for the entire fishing year.

4. Section 651.5(a) is revised to read as follows:

§ 651.5 Operator permits.

(a) *General.* Any operator of a vessel that has been issued a valid Federal multispecies permit under this part, or any operator of a vessel fishing for multispecies finfish in the EEZ or in possession of multispecies finfish in or harvested from the EEZ, must carry on board a valid operator's permit issued under this part. This requirement does not apply to recreational vessels and vessels that fish exclusively in state waters for multispecies.

5. In § 651.9, paragraph (b)(1) is revised, and paragraph (b)(11) is added to read as follows:

§ 651.9 Prohibitions.

* * * * *

(b) * * *

(1) Possess at any time during a trip, or land per trip, more than the possession limit of regulated species as specified in § 651.27(a), after using the vessel's annual DAS allocation or when not participating under the DAS program pursuant to § 651.22.

* * * * *

(11) Fail to comply with the layover day requirement as described in § 651.22(c)(1)(ii)(A).

* * * * *

6. Effective June 11, 1995, in § 651.9, paragraph (e)(36) is added to read as follows:

§ 651.9 Prohibitions.

* * * * *

(e) * * *

(36) Obstruct or constrict a net as described in § 651.20(h)(1) and (2).

* * * * *

7. Effective June 11, 1995, § 651.20 is amended by removing the words "paragraphs (f) and (g)" from the first sentences of paragraphs (b)(2)(ii) and (c)(2)(ii) and adding in their places the words "paragraphs (e) and (f)", and by revising paragraph (c)(4) introductory text to read as follows:

§ 651.20 Regulated mesh areas and restrictions on gear and methods of fishing.

* * * * *

(c) * * *

(4) *Net stowage requirements.* A net that is stowed and is not available for immediate use conforms to one of the following specifications:

* * * * *

8. In § 651.22, paragraphs (c)(1)(i)(B) and (d)(1)(i)(C) are revised to read as follows:

§ 651.22 Effort-control program for limited access vessels.

* * * * *

(c) * * *

(1) * * *

(i) * * *

(B) During each period of time declared, the applicable vessel may not possess more than the possession limit of regulated species as specified in § 651.27(a).

* * * * *

(d) * * *

(1) * * *

(i) * * *

(C) The measurement of length overall must be verified using documentation that accurately states length overall as described in paragraph (c)(1)(i)(A) of this section. Acceptable documentation includes U.S. Coast Guard

documentation on vessels built after 1984, written verification from a qualified marine surveyor or the builder, or the vessel's construction plans. A copy of the length overall verification must accompany an application for a Federal multispecies permit issued under § 651.4.

* * * * *

9. Section 651.23(c) is revised to read as follows:

§ 651.23 Minimum fish size.

* * * * *

(c) The minimum size applies to whole fish or to any part of a fish while possessed on board a vessel, except as provided in paragraph (d) of this section, and to whole fish only, after landing. Fish or parts of fish must have skin on while possessed on board a vessel and at the time of landing in order to meet minimum size requirements. "Skin on" means the entire portion of the skin normally attached to the portion of the fish or fish parts possessed.

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50 CFR Part 676

[Docket No. 950123023-5023-01; I.D. 010995E]

RIN 0648-AH38

Limited Access Management of Federal Fisheries In and Off of Alaska; Determinations and Appeals

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Interim final rule; request for comments.

SUMMARY: This interim final rule amends the regulations implementing the determinations and appeals procedures for limited access management of Federal fisheries in and off of Alaska and amends regulations implementing the individual fishing quota (IFQ) limited access program with respect to establishment of quota share (QS) pools for each IFQ regulatory area. The changes made to the determinations and appeals procedures reduce the current two-stage appeals procedure to a single-step process, and reduce the length of time periods for certain appeals-related actions. The changes made to the establishment of QS pools allow for the addition of catch history that is in dispute and being appealed. These changes are necessary to avoid

excessive delays in deciding appeals and to allow the timely issuance of IFQ resulting from disputed catch history that was successfully appealed. The intended effect of this action is to shorten the appeals process while providing reasonable time for applicants to file, and to provide IFQ resulting from disputed catch history to persons who may have an appeal successfully resolved after the IFQ calculation date.

DATES: Interim rule effective January 30, 1995. Comments must be received at the following address no later than March 6, 1995.

ADDRESSES: Comments on the interim final rule may be sent to Ronald J. Berg, Chief, Fisheries Management Division, Alaska Region, NMFS, 709 West 9th Street, Juneau, AK 99801, or P.O. Box 21668, Juneau, AK 99802-1668, Attn: Lori J. Gravel. Copies of the regulatory impact review prepared for this action may be obtained also from this address.

FOR FURTHER INFORMATION CONTACT: John Lepore, 907-586-7228.

SUPPLEMENTARY INFORMATION:

Background

The IFQ program is a regulatory regime developed by the North Pacific Fishery Management Council to promote the conservation and management of Pacific halibut (*Hippoglossus stenolepis*) and sablefish (*Anoplopoma fimbria*) fixed gear fisheries in the Gulf of Alaska and the Bering Sea and Aleutian Islands Area under Federal jurisdiction. Further information about the IFQ program is contained in the preamble to the final implementing regulations published November 9, 1993 (58 FR 59375). The commercial harvesting of halibut and sablefish under the IFQ program is scheduled to begin in the spring of 1995. The IFQ program is implemented by regulations at 50 CFR part 676.

The IFQ implementing regulations provide for the assignment of QS to qualified persons. The amount of QS assigned directly reflects a qualified person's verified catch history during specified years. The allocation of IFQ represents a privilege to harvest a specified amount of halibut or sablefish during one fishing year. The amount of IFQ allocated to any person by area is calculated annually on January 31 generally as the product of the total allowable catch available for harvest by fixed gear and the persons's QS divided by the QS pool for the area (50 CFR 676.20(f)). The QS pool for an area is the sum of all QS in that area for a species (50 CFR 676.20(b)).

Changes to the Determinations and Appeals Procedures

Final rules implementing the appeals procedure for limited access fisheries management of Federal fisheries in and off of Alaska became effective July 1, 1994 (59 FR 28281, June 1, 1994). A detailed explanation of the procedure for appealing initial administrative determinations appears in the preamble of the notice of proposed rulemaking published February 9, 1994 (59 FR 5979). Three changes to the final rules have been identified by NMFS as necessary to improve the efficiency of the appeals process. These changes:

1. Eliminate applicants' right to appeal an appellate officer's decision to the NMFS Director, Alaska Region (Regional Director), but retain the Regional Director's discretionary authority to renew, modify, reverse or remand any such decision;
2. Reduce the time period for filing an appeal of an initial administrative determination from 90 Federal business days to 60 calendar days after the date the determination was made; and
3. Reduce the time period before an appellate officer's decision becomes effective from 45 Federal business days to 30 calendar days after the date the decision is issued, unless, prior to that time, the Regional Director alters or modifies the decision, issues an order staying the effectiveness of the decision pending review, or accelerates the effectiveness date.

Subject to later revision based on public comments received, these actions are necessary to avoid excessively delayed appeals decisions. It is now apparent that the timely resolution of appeals to the Regional Director will not be possible. The changes discussed above will facilitate a more timely appeals process. The original time periods were excessively long in view of the number of appeals that are now expected, and resolving these appeals more expeditiously will benefit the fishermen involved. The majority of the initial administrative decisions to deny QS are due to be issued before January 31, 1995, the date of the required calculation of IFQ for the 1995 fishing season.

The first change is the elimination of the right to appeal an appellate officer's decision to the Regional Director. The Regional Director's discretionary authority to review and modify, reverse, or remand any appellate officer's decision is retained. This effectively changes the original two-stage appeals procedure into a single-step process. The original procedure provided an applicant a first-stage opportunity to